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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Jubilee Campaign, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Detention of Nguyen Van Dai and Freedom of Religion or Belief in Vietnam

Jubilee Campaign, together with Christian Solidarity Worldwide (CSW), seeks to draw the Council's attention to the detention of lawyer and activist Nguyen Van Dai and his colleague Le Thu Ha and as well as wider freedom of religion or belief violations in Vietnam.

Detention of Nguyen Van Dai

On 16 December 2015 Vietnamese human rights lawyer Nguyen Van Dai and his colleague Le Thu Ha were taken into police custody in Hanoi, and later charged with 'conducting propaganda against the Socialist Republic of Vietnam' under Article 88 of the Vietnamese penal code. This charge is commonly levelled against activists and dissidents in Vietnam, and can carry a sentence of up to 20 years in prison. Dai, a well-known defender of human rights and religious freedom, has previously served a four-year prison sentence after being found guilty under the same article. After being released he was harassed and physically intimidated, and on more than one occasion he was assaulted. At the time of his December 2015 arrest, Dai was preparing to meet European Union representatives who were in Hanoi for the annual EU-Vietnam human rights dialogue.

Nguyen Van Dai (46) is a Hanoi-based Vietnamese human rights lawyer and pro-democracy activist, who has provided legal advice and representation to victims of human rights abuses – including religious minorities – across Vietnam. Other human rights-related activities include organising training courses and conferences for young activists and for religious communities facing restrictions on their right to freedom of religion or belief, contributing to online articles and reports on human rights issues, and networking with other activists to promote human rights and democracy. Dai is a Protestant Christian. On at least one occasion, he has been prevented from attending church; these preventions were in connection with his human rights work and his status as a former prisoner. Dai is also the founder of the Committee for Human Rights in Vietnam, and one of the original signatories to Bloc 8406, a manifesto on freedom and democracy in Vietnam signed by 118 peaceful democracy activists in 2006.

On 6 December 2015 Dai was assaulted along with three of his friends after attending a conference organised to educate the citizens of Nghe An about their rights, including the right to freedom of religion or belief, as guaranteed in the Vietnamese constitution. The event proceeded without interruption, despite initial requests by the police to cancel the forum. Afterwards, Dai and several colleagues travelled to Quan Hanh, the capital of Nghi Loc District. Upon arrival they were met by approximately 20 plain-clothed police, who proceeded to confront them and beat them with wooden sticks, striking their shoulders and thighs. Dai was pulled onto a motorcycle and driven to a different location about 20km from Nghi Loc, where the beatings continued and he received a blow to the head. His possessions were confiscated, including documents, his phone, camera and wallet.

On 16 December 2015 Nguyen Van Dai and his colleague Le Thu Ha (33) were taken into police custody in Hanoi, and were later charged with 'conducting propaganda against the Socialist Republic of Vietnam' under Article 88 of the penal code. During the arrest Dai's home was searched by approximately 20 police officers and several items were confiscated, including laptops and bank documents.

Dai's detention has been confirmed in a statement by the Ministry of Public Security which accuses him of 'conducting propaganda against the state' (Article 88). Both Nguyen Van Dai and Le Thu Ha are being held in B14 prison in Hanoi, fellow activists' requests for visits have been refused, and there are concerns that they are at risk of torture and other ill-treatment. According to unconfirmed reports, Dai's wife has been able to visit him once, but they were interrupted throughout the visit. Various activists have used social media to call for their release.

The arrest of Le Thu Ha, Dai's assistant, is believed to be connected to Dai's case, since she was arrested at her office on the same day and faces the same charge. Ms Ha is a member of the Brotherhood for Democracy Association and has been involved in providing English classes for human rights activists. According to one source, she was briefly detained by police at Hanoi airport when trying to leave for a human rights meeting in Sweden. Her passport was confiscated on the grounds of 'national security'. She was also interrogated for one day in September 2015, along with five other

activists, for her work with the new YouTube channel 'Conscience TV' – an independent news service with a special focus on social justice and human rights.

Jubilee Campaign together with CSW is deeply concerned about the safety and human rights of Nguyen Van Dai and Le Thu Ha, and calls for their immediate release and for them to be allowed to carry out their vital work without interference or threats to their personal safety.

Draft Law on Religion or Belief

The Vietnamese constitution of 1992 guarantees freedom of religion or belief; however, in reality the situation has remained fragile. Conditions for believers vary according to region, ethnicity, legal status, denomination and relationship with the authorities. Jubilee Campaign together with CSW is concerned about the draft law on religion or belief currently being reviewed by the legislature in Vietnam.

At present, there is no law on religion or belief in Vietnam. However, the Ordinance on Belief and Religion (2004) and Decree 92 (2013), which provides guidance on the implementation of the Ordinance, have been criticised by lawyers, religious leaders and human rights activists for focusing on the management and control of religious activities rather the protection of the right to freedom of religion or belief. There are fears that the new law on religion and belief will prevent rather than protect the enjoyment of full freedom of religion or belief. Civil society organisations have raised concerns about various elements of the draft such as the onerous requirements for the registration of religious organisations, excessive state control over and interference in religious organisations' internal affairs, and ambiguous language that may lead to discrimination. Despite the consultation of the President of Vietnam Fatherland Front (VFF) with 32 religious organisations in 2015, the drafting of the new law was not inclusive of diverse religious voices. It is not clear whether independent religious communities not registered with the authorities were consulted. In addition, religious leaders were given a prohibitively short time to provide feedback on the draft law.

Religious leaders and legal experts fear that if passed, the draft law would act as a powerful instrument to allow the repression of religious activities and communities to continue. It remains crucial for the government to either revise the draft law or abandon it altogether, in line with international standards on the right to freedom of religion or belief.

Recommendations to the Human Rights Council

- Urge Vietnam to unconditionally and immediately release all prisoners of conscience arrested or arbitrarily detained in connection with their peaceful defence of freedom of religion or belief and other human rights
- Ensure that the cases of Nguyen Van Dai and Le Thu Ha are handled in accordance with international law, and that their rights are protected as stipulated in the International Convention on Civil and Political Rights, and other treaties to which Vietnam is a party. This includes the right to legal assistance, the right to be presumed innocent until proven guilty, and the right to a fair and public hearing, as well as protection from torture and mistreatment
- Urge Vietnam to revise the draft law on religion or belief in open and free consultation with representatives of religion or belief communities, including ethnic and religious minorities and unregistered/independent communities, or abandon it altogether; and to repeal other laws and decrees which infringe on fundamental human rights
- Urge Vietnam to invite the UN Special Rapporteur for freedom of religion or belief and other UN Special Procedures to visit the country with unhindered access
- Urge Vietnam to abide by all the international human rights instruments it has ratified
- Ensure that human rights are central in any negotiations, whether bilateral or multilateral, between Vietnam and any UN Member State.

Christian Solidarity Worldwide, an NGO without consultative status, also shares the views expressed in this statement.